

Elder Financial Abuse and Exploitation related statutes

Neb.Rev.St. § 28-386

28-386. Knowing and intentional abuse of a vulnerable adult; penalty

(1) A person commits knowing and intentional abuse of a vulnerable adult if he or she through a knowing and intentional act causes or permits a vulnerable adult to be:

- (a) Physically injured;
- (b) Unreasonably confined;
- (c) Sexually abused;
- (d) Exploited;
- (e) Cruelly punished; or
- (f) Denied essential services.

(2) Knowing and intentional abuse of a vulnerable adult is a Class IIIA felony.

Neb.Rev.St. § 28-358

28-358. Exploitation, defined

Exploitation shall mean the taking of property of a vulnerable adult by means of undue influence, breach of a fiduciary relationship, deception, or extortion or by any unlawful means.

Neb.Rev.St. § 28-368

28-368. Substantial functional impairment, defined

Substantial functional impairment shall mean a substantial incapability, because of physical limitations, of living independently or providing self-care as determined through observation, diagnosis, investigation, or evaluation.

Neb.Rev.St. § 28-371

28-371. Vulnerable adult, defined

Vulnerable adult shall mean any person eighteen years of age or older who has a substantial mental or functional impairment or for whom a guardian has been appointed under the Nebraska Probate Code.

Neb.Rev.St. § 28-511

28-511. Theft by unlawful taking or disposition

(1) A person is guilty of theft if he or she takes, or exercises control over, movable property of another with the intent to deprive him or her thereof.

(2) A person is guilty of theft if he or she transfers immovable property of another or any interest therein with the intent to benefit himself or herself or another not entitled thereto.

(3) Except as provided in subsection (4) of this section, it shall be presumed that a lessee's failure to return leased or rented movable property to the lessor after the expiration of a written lease or written rental agreement is done with intent to deprive if such lessee has

been mailed notice by certified mail that such lease or rental agreement has expired and he or she has failed within ten days after such notice to return such property.

(4) A person is guilty of theft if he or she (a) rents or leases a motor vehicle under a written lease or rental agreement specifying the time and place for the return of the vehicle and fails to return the vehicle within seventy-two hours of written demand for return of the vehicle made upon him or her by certified mail to the address given by him or her for such purpose or (b) uses a fraudulent or stolen credit card to rent or lease a vehicle. Nothing in this subsection shall apply to any person who (i) through inadvertence, mistake, act of God, or other natural occurrence has unintentionally failed to return a rented motor vehicle or to inform the owner of the location of the vehicle or (ii) has had a rented motor vehicle stolen or otherwise converted from his or her possession and has filed the appropriate report with law enforcement authorities.

Neb.Rev.St. § 28-512

28-512. Theft by deception

A person commits theft if he obtains property of another by deception. A person deceives if he intentionally:

- (1) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise; or
- (2) Prevents another from acquiring information which would affect his judgment of a transaction; or
- (3) Fails to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or
- (4) Uses a credit card, charge plate, or any other instrument which purports to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer (a) where such instrument has been stolen, forged, revoked, or canceled, or where for any other reason its use by the actor is unauthorized, or (b) where the actor does not have the intention and ability to meet all obligations to the issuer arising out of his use of the instrument.

The word deceive does not include falsity as to matters having no pecuniary significance, or statements unlikely to deceive ordinary persons in the group addressed.

Neb.Rev.St. § 28-509

28-509. Terms, defined

As used in sections 28-509 to 28-518, unless the context otherwise requires:

- (1) Deprive shall mean:
 - (a) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value, or with intent to restore only upon payment of reward or other compensation; or
 - (b) To dispose of the property of another so as to create a substantial risk that the owner will not recover it in the condition it was when the actor obtained it;

- (2) Financial institution shall mean a bank, insurance company, credit union, building and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment;
- (3) Movable property shall mean property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby may have no physical location. Immovable property shall mean all other property;
- (4) Obtain shall mean:
- (a) In relation to property, to bring about a transfer or purported transfer of a legal interest in the property, whether to the obtainer or another; or
- (b) In relation to labor or service, to secure performance thereof;
- (5) Property shall mean anything of value, including real estate, tangible and intangible personal property, contract rights, credit cards, charge plates, or any other instrument which purports to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer, choses in action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink, and electric or other power;
- (6) Property of another shall mean property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security agreement;
- (7) Receiving shall mean acquiring possession, control, or title, or lending on the security of the property; and
- (8) Stolen shall mean property which has been the subject of theft or robbery or a vehicle which is received from a person who is then in violation of section 28-517.

Neb.Rev.St. § 28-513
28-513. Theft by extortion

- (1) A person commits theft if he obtains property of another by threatening to:
- (a) Inflict bodily injury on anyone or commit any other criminal offense; or
- (b) Accuse anyone of a criminal offense; or
- (c) Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or
- (d) Take or withhold action as an official, or cause an official to take or withhold action; or
- (e) Bring about or continue a strike, boycott, or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or
- (f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.
- (2) It is an affirmative defense to prosecution based on subdivision (1)(b), (1)(c), or (1)(d) of this section that the property obtained by threat of accusation, exposure, lawsuit or other invocation of official action was honestly claimed as restitution or indemnification for harm done in the circumstances to which such accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful services.